

1907-011
Lee Co.

Chancery Causes: Alba Johnston to vs. Black Mountain Coal Land Co.]

Pruitt, Johnson, Eldridge, Bailey

CA-Contract Dispute
T-Property

To the Honorable H. A. W. Sken,
Judge of the Circuit Court of Lee County,
Va.

Your Complainants, Alpha Johnston
and Mary Johnston humbly complain-
ing allege and represent to the Court that
they are children and heirs at law
of one Elijah Pruitt, deceased, that
the said Elijah Pruitt departed this
life intestate on the 8th of 1906
seized and possessed of a large tract or
parcel of land containing about acres
lying and being in said County and being
on the head waters of Bailey's Fork
in what is known as the Pocket,
which is fully described in the decla-
ration in respect thereto fully refer-
red to.

Your Objections allege and repre-
sent that at the death of the said
Elijah Pruitt, the said tract or parcel
of land descended to your complainants,
Vachon Pruitt, Hugh Pruitt, Worthen
Johnson, Margaret Eldridge, Matilda
Bailey and Mary Eldridge his children and
heirs at law. Said Pruitt left no

vidence at the time of his death.

Your Complaint alleges and represents that on the 1st day of October 1813 there was admitted to record in the Clerk's Office of said County what on its face purports to be a deed of conveyance of said tract of land from the said Eliza Smith to Jas. H. Caldwell, R. L. Sulang, and W. B. Emmert. A Corporation under the corporate name of the Black Mountain Coal & Lumber Company now claims title to same as vendee, or successors to the said Caldwell, Sulang and Emmert and that in fact said Emmert, Caldwell, Sulang and Emmert took the pretended conveyance for said County and that the said pretended vendee or vendees of said Corporation.

Your Complaint alleges that said pretended deed was obtained but a few days before its recordation.

Your Complaint further alleges and represents ^{that the said Eliza Smith} was at the time of said pretended conveyance, and had been for some time prior thereto wholly incompetent and incapable of making a conveyance or transacting any kind of business. The said Smith case

at the time of the date of said alleged con-
viction a man of about thirty years of age was
sensible in mind and body and not disposed
to understand the nature and importance
of his business -

That at and before the time of said
alleged conviction, under influence, intimidation, and
threats were used to procure said con-
viction and he was also put under the
influence of intoxicating drinks to induce him
to part with his land. Your respondents
further allege and represent that at
the time said conviction was made, which
the defendant purporting to be in this
case was made, the said Elijah
Smith was not of sound mind and
understanding, and that at the time of his death.

Your respondents further allege and
represent that the consideration paid for
said land was so wholly inadequate
as to shock the conscience of a Chancellor
and to stamp the transaction with the
character of fraud.

Said deed was procured by fraud and
under influence.

Your respondents further allege and
represent to the Court, that the Black
Wander Land and Survey is being

Said land of Peter of said County
from Elijah Pruitt and has insti-
tuted an action of Ejectment in the
Circuit Court of said County against
your complainant and the other heirs of
said Elijah Pruitt for the purpose of
ousting complainants from said land and
to this have said parties duly appeared.
Said action of Ejectment in the report of
a Justice in present to be considered a
part of the trial.

Your complainants are informed that
said Nathan Pruitt, Robert Pruitt,
Hugh Pruitt, Martha Johnson, Mrs.
George Eldridge, Malinda Barty and Mary
Eldridge have caused their entries in
said land to the Black Mountain
Coal Land Company which facts
your complainants do not know whether
true or false.

Your complainants do represent that
they have a good equitable claim to
said action of Ejectment which they cannot
assert in a court of law. They
further allege and represent that they cannot
make their title good of Elijah Pruitt

Collaterally and in a bank of land
but its in the present position of
a bank of land to give the relief.

Your complainants allege and represent
that under the said Black Man
Land Law and Copy is now
and in fact by a bank of land from
so that it will produce said title
action of equity to a final judgment
to the said complainants in favor of
the complainants. They also and represent
that they have no remedy at law to re-
dress the injuries which complainant of

Complainants further allege and represent
that said land is susceptible of pro-
duction in kind and quality and those en-
titled thereto and pay that some value in
the land may be partitioned.

Your complainants further allege and
represent that the price paid for said
land to said fund over fifty hundred
dollars per acre and its in value at
least five hundred dollars per acre - that
it is well known with the best volun-
tary and so on.

The complainants allege and represent

That the dependent Campy has taken
much valuable timber from said land
and is still getting and removing, some
and it should be much to allow for
said timber and all damages done to
said land -

Complaints are advised that inasmuch
as they are the dependent Campy claim from
the same source of title it is not necessary
to file their title papers in this case.

These premises considered the prayer of
your complaints in that the Black
Mountain Coal Land Company, the
Robert Smith, Nathan Smith, Gust
Smith, Martha Johnston, Margaret
Eldridge, Matilda Bailey and Mary El-
dridge be made parties dependent to this
suit, that they be required to answer the
complaint and not on oath, that the
Black Mountain Coal Land Company
be enjoined and restrained from further
said act of trespass and payment, that
on a final hearing of this case said in-
junction may be made perpetual, that
said land be partitioned in kind and
that any other estate therein may
the dependent Campy be required to answer

Bank to deposited for the Title taken
therefrom and from my all said other
for the and several rights in and to the
said complaint as to a Court of Equity
may seem fair and just. Being ~~under~~
ready, I am in a Court of Equity where
matters of this kind especially relate,
they come into this Court ~~Handwritten~~
and will come from my -

Albin Johnson

May Johnson

A. C. D. Warden and Receiver ~~of~~ Bel F. J.

See County, in writ -

I, H. C. T. Ewing, County Clerk of
said County do certify that Albin
Johnson appeared before me ^{the 22nd day of May, 1904,} on this day
in my County aforesaid and made oath
that the statements contained in this writ are
true to the best of his knowledge and
belief -

H. C. T. Ewing, Clerk.

Chas. Johnston & Co
or
Injunction
Bill

The Blush Maudslayi

Car. L. or C. or C.

Piffs. costs received.

Cluck \$5.83

atty. 15.00

\$20.83

Depts. Costs:

Cluck \$2.80

CIRCUIT COURT FOR LEE COUNTY

Alba Johnston, et al.,

vs.

Black Mountain Coal Land Company, Incorporated.

This day came Alba Johnston and Mary Johnston, by their counsel, and presented to the Court a bill against the Black Mountain Coal Land Company, Incorporated, and others, which bill among other things prayed for an order enjoining and restraining the said Black Mountain Coal Land Company, Incorporated, from the further prosecution of an action of ejectment against the complainants in said bill, which action of ejectment is now pending upon the law side of this court, and said complainants filed in support of said application the affidavits of the following parties, to-wit: James M. Carter, S. C. DeBusk, E. L. Maness, J. A. Waddell, Mary Johnston, B. W. Boswerth, Oscar S. Doss, W. H. Wax, M. W. Zion, A. J. Witt, J. N. Redwine, S. L. Witt, W. H. Johnston, E. S. Stapleton, S. M. Johnston and Alba Johnston; and, thereupon, the said Black Mountain Coal Land Company, Incorporated, filed its answer to the said bill, verified by the affidavit of N. D. Bachman, Jr., and also filed the affidavits of L. T. Hyatt, J. C. Noel, C. T. Duncan, W. B. Emmert and W. T. Orr,

in reply to which last named affidavits, the said complainants filed the affidavits of Alba Johnston and S. M. Johnston; and the said bill, answer and affidavits are all marked filed as of this date by the Clerk of this Court; and the court having maturely considered the said application for an injunction is of opinion and doth order that the said injunction be and the same is hereby refused and denied; and by agreement of complainants and defendants in said bill, by their counsel, made in open court, it is ordered that the writ of inquiry be forthwith executed in the action of ejectment mentioned in the said bill, and a verdict of the jury rendered for the plaintiff against Alba Johnston and Mary Johnston, and judgment for the plaintiff in said action of ejectment against the said defendants be rendered for the said land,- the judgment in said action of ejectment, however, to provide that the plaintiff therein shall pay the costs of the said action, all of which is accordingly done, as will appear by the records of this court on the law side thereof; and, it is by like consent of counsel in open court entered of record that no further action or proceeding will be taken or attempted by the said Mary or Alba Johnston looking to the accomplishment of the object of the said bill as set forth in the prayer thereof; and, by like agreement, the defendant herein, the Black Mountain Coal Land Company, Incorporated, will pay such costs as have been incurred in connection with the presentation of said bill ,

Alba Johnston et al
vs { Dyer

Black Mountain Coal
Land Company, Incor-
porated-

Entered in C.B.
#8, page 299 ve-

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HAWSIWY

May 24-1907